1	1	N	J	r	ľ	r	Г	١.	S	\mathbf{r}	٨	Т	T	7	C	1	n	T	C	ריי	ויו	D	T	ſ	ריי	Г.	$\boldsymbol{\cap}$	ſ	N	n	D	רו	Γ.
ı	J	11	N			Г.		,	•		4			٦,,	7			,,				ĸ					ι.	•	,	. ,	ш		

EASTERN DISTRICT OF TEXAS

MELODIO REYES,	§
Plaintiff,	8 8 8
versus	§ CIVIL ACTION NO. 1:20-CV-61
M.K. LEWIS, et al.,	8 8 8
Defendants.	§

MEMORANDUM ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Melodio Reyes, an inmate formerly confined at the Federal Correctional Complex in Beaumont, Texas, proceeding *pro se*, brought this lawsuit.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice pursuant to FED. R. CIV. P. 41(b).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

On November 2, 2020, plaintiff was ordered to pay an initial partial filing fee of \$24.51. Plaintiff's compliance was due on or before the expiration of thirty (30) days from the date of the order. The statement of plaintiff's prisoner account submitted along with his application to proceed *in forma pauperis* showed an available balance of \$127.54 in his account. As of this date, plaintiff has neither complied with the order of the court to pay the filing fee nor shown good cause for failing to do so. On March 24, 2021, plaintiff submitted another motion to proceed *in forma pauperis*. The motion, however, did not contain a statement of plaintiff's trust account from prison officials or any statement from plaintiff regarding the current balance in his account.

Plaintiff was warned of the potential dismissal of his lawsuit for failing to comply with the

order to submit a proper application to proceed in forma pauperis. Such warning, however, has

proven futile in prompting the diligent prosecution of this case. Plaintiff has failed to show he

made any attempt to comply with the order.

Additionally, a review of the website for the Bureau of Prisons reveals plaintiff was

released from confinement on June 24, 2021. See https://www.bop.gov/inmateloc/. However,

plaintiff has failed to notify the court of an address at which he may be contacted despite having

sufficient time in which to do so.

The court has considered lesser sanctions but finds no lesser sanction appropriate because

plaintiff has failed to comply with the initial requirement for all litigants, to pay the required filing

fee or, as required under the PLRA, submit a properly certified application to proceed in forma

pauperis and pay an initial partial filing fee. Additionally, plaintiff has prevented the court from

communicating with him following his release. The dismissal of this action will be without

prejudice, and plaintiff is not barred by the applicable two-year statute of limitations. Therefore,

plaintiff may refile his lawsuit after obtaining the proper information necessary for the court to

determine his eligibility to proceed on an in forma pauperis basis.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are

correct, and the report of the Magistrate Judge is ADOPTED. A final judgment will be entered

in this case in accordance with the Magistrate Judge's recommendation.

SIGNED at Beaumont, Texas, this 6th day of July, 2021.

MARCIA A. CRONE
INITED STATES DISTRICT

Maria a. Crone

UNITED STATES DISTRICT JUDGE

2